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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

International Settlements Rates

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96-261  
IB Docket No. 996-261

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COMMENTS OF  
PRIMUS TELECOMMUNICATIONS GROUP, INC.

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February 7, 1997

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Primus Telecommunications Group, Inc. ("Primus"), by its undersigned counsel, hereby submits the following comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.<sup>1</sup> As a preliminary matter, Primus commends the Commission on its adoption of policies designed to bring international accounting rates down closer to cost, while recognizing the practical need for flexibility to respond to changing market conditions in the provision of global telecommunications services. Consistent with its recent efforts, Primus urges the Commission to continue its efforts to safeguard competition and facilitate the entry of new carriers to the global telecommunications market simply allowing private line resale or International Simple Resale ("ISR") on all routes without regulatory oversights. Alternatively, Primus supports the Commission's proposal to allow international carriers to engage in International Simple Resale

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<sup>1</sup> *In the Matter of International Settlement Rates*, FCC 96-484, IB Docket No. 96-261 (rel. Dec. 19, 1996) ("Notice" or "NPRM").

(“ISR”) with any country when the settlement rate is within the established benchmark range for that route.<sup>2</sup> Furthermore, Primus urges the Commission to adopt this proposal without imposition of the ECO test as established in *Foreign Carrier Entry Order*.<sup>3</sup>

## **BACKGROUND AND STATEMENT OF INTEREST**

Primus Telecommunications Group, Inc. is a multinational telecommunications company that focuses on the provision of international and domestic long distance services. The Company plans to capitalize on the increasing business and consumer demand for international telecommunications services generated by the globalization of world economies and the worldwide trend toward deregulation of the telecommunications sector. Primus currently provides telecommunications services in the United States, Australia and the United Kingdom on a resale basis and, where cost efficient, on company-owned facilities. Primus targets, on a retail basis, small- and medium-sized businesses with significant international long distance traffic and ethnic residential consumers, and on a wholesale basis, other telecommunications carriers and resellers with international traffic.

As a new entrant in the international long distance market, Primus provides a broad array of competitively priced telecommunications services, including long distance voice services to over 200 countries, domestic long distance and private network services, toll free services, international

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<sup>2</sup> Primus is a part of the “multilateral consensus [that] has emerged [and agrees] that the traditional accounting rate system must be reformed because it results in settlement rates that are substantially above costs and creates competitive distortions and inefficiencies in the global telecommunications market.” *International Settlements Rates Order* at 2. Primus, however, takes no position on the method the Commission should employ to revise these rates.

<sup>3</sup> *Market Entry and Regulation of Foreign-Affiliated Entities, Report and Order*, IB docket 95-22, 11 FCC Rcd 3873 (1995) (“*Foreign Carrier Entry Order*”).

private networks, and local switched and cellular services in Australia. Primus is actively seeking to enter other international markets, initially on a resale basis, as opportunities for global expansion arise. Consequently, the ability to provide ISR on as many routes as possible is critical to the Company's business plan.

**I. The Commission Should Adopt A Policy That Permits U.S. Carriers To Engage In ISR To Any Country**

Consistent with the Commission's stated objective in this proceeding to place downward pressure on foreign carriers to lower their settlement rates, Primus challenges the Commission to take a bold step and permit U.S. carriers to engage in ISR on any route. The Commission has long recognized ISR as a viable alternative to international settlements framework.<sup>4</sup> International private line resale lowers the accounting and settlements rates by compelling "carriers at both ends of the circuit to bring their prices to cost and avoid losing their customers."<sup>5</sup>

Allowing carriers to engage in ISR with foreign countries creates downward pressure on carriers to lower prices, and, over time, results in lower international accounting rates which are much closer to cost. This is true for two reasons. First, facilities-based carriers who lose IMTS minutes to resellers lose customers; and second, facilities-based carriers who lose IMTS minutes to resellers lose the ability to collect revenue for those minutes in the settlement process. While the facilities-based carrier may simply increase the collection rate on remaining customers to offset this

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<sup>4</sup> *In the Matter of Regulation of International Accounting Rates*, 7 FCC Rcd 559, 560 (released Dec. 23, 1991).

<sup>5</sup> *Id.*

loss, such an increase (in the face of competition) is likely to result in the loss of additional customers. Faced with this paradigm, the facilities-based carrier will be forced to reduce its IMTS rates to attract customers and remain competitive. The FCC should, therefore, permit U.S. carriers to engage in ISR with foreign countries as a method of fostering open and robust competition and placing additional downward pressure on foreign carriers to reduce rates.

With this Rulemaking, the Commission has a unique opportunity to foster positive growth and engineer structural changes in the global telecommunications industry. Primus believes that the best way to force international accounting rates down closer to cost would be to allow the unfettered offering of ISR to any country. Alternatively, Primus supports the Commission's proposal to allow ISR to any country whose settlement rates are within the benchmark range for country.

## **II. The Commission Should Not Subject Countries Whose Rates Fall Within the New Benchmark Guidelines to the ECO Test**

If the Commission restricts ISR authority only to those countries whose settlement rates fall within the benchmark range, the Commission should not require an additional showing under the ECO test. Primus believes that imposing the ECO test on the foreign market, once the benchmarks have been adopted and implemented, would be inconsistent with the Commission's goals, and would create an unnecessarily stringent regulatory environment that would impede competition. Therefore, Primus submits that absent a policy of permitting ISR on any route, the policy of allowing U.S. carriers to engage in ISR on any route where a country's settlement rate falls within the FCC's benchmark range should replace, not supplement, the Commission's equivalency requirement.

The Commission's stated goals in adopting the ECO test were "(1) to promote effective

competition in the global market for communications services; (2) to prevent anticompetitive conduct in the provision of international services or facilities; and (3) to encourage foreign governments to open their communications markets.”<sup>6</sup> The Commission’s goals in this proceeding are identical.<sup>7</sup> These goals can be achieved without applying the ECO test to countries whose settlement rates are within the limits adopted by the Commission.

Rather than continuing to apply the ECO test, the Commission should permit carriers to engage in ISR in markets where ISR will result in market-based pricing and increased competition, but not in markets where it would result in a carrier abusing a dominant market position. The Commission has created the “flexibility test” for carriers to obtain approval for alternative payment arrangements with carriers in market that have not implemented effective competition. Primus submits that once carriers have established settlement rates within the Commission’s benchmark range, the flexibility test is met, and no further regulation is needed. Therefore, as an alternative to adopting a policy of unregulated ISR on all routes, Primus urges the Commission to permit ISR on routes where a foreign carrier’s rates are within the benchmark guidelines. “[I]n a competitive environment, market forces can replace regulation and make unnecessary burdensome regulatory requirements for both non-dominant carriers and the Commission.”<sup>8</sup> The Commission’s adoption of cost-based benchmark rates will foster just the kind of competitive environment envisioned by the ECO test, and will eliminate the need for imposition of mandatory compliance with the

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<sup>6</sup> *Foreign Carrier Entry Order* at 3877, ¶ 6.

<sup>7</sup> *International Settlements Rates* at 2.

<sup>8</sup> *Foreign Carrier Entry Order* at 3878, ¶ 9.

benchmark rates *and* a successful demonstration that a country meets the ECO test.

While Primus recognizes that mere competitive entry into a market does not ensure effective competition which is in the public interest, the Company argues that the new benchmark rates will provide the necessary framework to ensure effective competition. The imposition of only one regulatory layer will foster new market environments where “carriers are better able to respond to customer demand for innovative services at the lowest reasonable rate.”<sup>9</sup>

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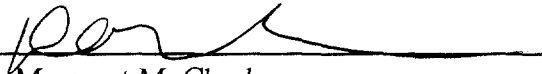
<sup>9</sup> *Id.*

## **CONCLUSION**

Primus supports the Commissions efforts to open international markets to competition. Such competition would best be achieved by opening all foreign markets to ISR. However, if the Commission does not adopt an policy of open competition in the foreign market for ISR in this Rulemaking, Primus urges the Commission to permit ISR with any country whose international settlement rates are within the benchmark range. Primus also submits that the Commission should adopt such a policy without the imposition of the ECO test.

RESPECTFULLY SUBMITTED,

**PRIMUS TELECOMMUNICATIONS GROUP, INC.**

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